IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.413 OF 2006
IN
CRIMINAL WRIT PETITION NO.2079 OF 2004

Shri Mahesh Savani through POA holder and Authorized Signatory Shri Ramesh Savani.) ... Applicant (Orig. Petitioner)

Vs.

The Intelligence Officer & Ors.) ... Respondents

Mr. Uday Warunjikar with Mr. Y.M. Rohir for the applicant.

Mr. H.V. Mehta for the respondents 1 and 3.

CORAM : SMT. RANJANA DESAI, J.

DATED : 8TH DECEMBER, 2006.

P.C. :-

1. The petitioner has filed this petition challenging the order passed by the Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Mumbai, in R.A. No.52 of 2003 directing the petitioner to deposit his passport with the Customs Department. The petition is filed as far back on 12/10/2004. The stand of the respondents is not clear. Till date, no affidavit is filed by the respondents opposing admission of this writ

petition. The case of the petitioner appears to be that the offence alleged against him is under section 135(1)(ii) of the Customs Act and it being a bailable offence, the learned Magistrate could not have directed the petitioner to deposit his passport with the Customs Department.

2. Mr. Warunjikar, the learned counsel appearing for the petitioner states that the learned Additional Chief Metropolitan Magistrate has permitted the petitioner to go abroad six times on condition that after coming back to India, the petitioner shall deposit his passport with the Customs Department. The petitioner was also directed to deposit a sum of Rs.2 lacs in the court which he has done. Mr. Warunjikar stated that after this petition was filed, on three occasions, this court has permitted the petitioner to go abroad on the condition that after coming back to India, the petitioner deposits his passport with the Customs Department. The petitioner has now preferred the instant application making similar prayer.

3. I have heard Mr. Mehta, the learned counsel appearing for respondents 1 and 3. Considering the fact that similar orders have earlier been passed by this court and that the petitioner has complied with the conditions imposed by this court and on each occasion after coming back to India, the petitioner has deposited his passport with the

Customs Department, I see no reason why I should not pass a similar order. No serious objection is raised by the respondent. In the present application, the petitioner has prayed that he may be permitted to visit the countries in Asia and Europe for a period of six months. In the circumstances of the case, in my opinion, permission could be granted to the petitioner to go abroad for a period of three months on the condition that on coming back to India, the petitioner deposits his passport with the Customs Department. The petitioner shall inform the Customs Department that he has returned to India as soon as he returns to India. In the circumstances, I pass the following order :

O R D E R

4. The petitioner - Mr. Mahesh Savani is permitted to visit the countries in Asia and Europe for a period of three months. For that purpose, the Customs Department shall hand over his passport to him within a period of one week from today. The petitioner is permitted to go abroad for three months and on his return to India, within a period of one week, he shall deposit his passport with the Customs Department. The petitioner shall furnish to the Customs Department his addresses and telephone numbers , where he will be available and also his itinerary. The petitioner shall inform the Customs Department

that he has returned to India as soon as he returns to India.

5. Criminal application is disposed of in the aforestated terms.

[SMT. RANJANA DESAI, J.]